

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

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Bill Number: AB 1057

Related Bills: See Prior Analysis

Telephone: 845-7478

Amended Date: June 5, 2001

Attorney: Patrick Kusiak

Sponsor: _____

SUBJECT: Donations of Material, Equipment or Services for Highway Maintenance or Enhancement Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 25, 2001.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 25, 2001, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would allow a credit for roadside maintenance and enhancement.

SUMMARY OF AMENDMENTS

The June 5, 2001, amendments resolved the department's implementation concerns. Specifically, the amendments would:

- Specify the credit would be equal to 50% of the qualified amount, which is defined as both the amount paid or incurred and the value of materials, equipment, or services donated for maintenance or roadside enhancement.
- Allow taxpayers under both the Personal Income Tax Law and the Bank and Corporation Tax Law to claim this credit.
- Allow the credit for taxable years beginning on or after January 1, 2001, and before January 1, 2006.
- Allow the unused credit amount to be carried forward for up to seven years, or until it is exhausted, whichever occurs first.
- Specify that a taxpayer taking this credit may not take any other deduction or credit for the same item or service that is donated.
- Require the taxpayer to obtain verification from the California Department of Transportation (DOT) of the value of items or services donated.
- Require the Franchise Tax Board (FTB) to report to the Legislature on the utilization of this credit.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Legislative Director

Date

Brian Putler

06/11/01

Except as discussed in this analysis, the department's analysis of the bill as amended April 25, 2001, still applies. The new and remaining policy and technical considerations are included below for convenience.

POSITION

Pending.

Summary of Suggested Amendments

Amendments are provided to address the department's technical considerations.

TECHNICAL CONSIDERATIONS

This bill defines the value of services donated as no greater than the hourly rate for labor as defined by DOT. For example, if DOT assesses the hourly rate of labor as \$10.00, this bill could be interpreted to mean the value of the credit for services donated could be no greater than \$5.00 (50% of the hourly rate of labor). Amendments 1 and 4 are provided to clarify that the value of services donated would be no greater than "an amount determined using" the DOT hourly rate of labor, which would allow the DOT hourly rate to be used in calculating the total labor cost.

Under this bill, written verification from DOT is required for the value of materials, equipment, and services that are donated, but the bill does not require verification for the amount paid or incurred for maintenance or roadside enhancement. Amendments 2 and 5 clarify that the taxpayer would obtain verification from DOT of all amounts for the credit.

Further, this bill could be interpreted to require the taxpayer to receive the verification for the total amount of donations made to DOT from all taxpayers. Amendments 2 and 5 clarify that the individual taxpayer is to receive the written verification for only its own amounts.

This bill allows the excess credit to be "carried forward" to succeeding tax years. To maintain consistency within the Revenue and Taxation Code, amendments 3 and 6 would make a technical correction to change "carried forward" to "carried over."

ECONOMIC IMPACT

Revenue Estimate

The revenue impact for this bill will be determined by the number of taxpayers who make donations, the value of the donations and the tax liabilities of donors for applying the tax credits.

Based on new information provided by the Department of Transportation, it is projected that approximately 50,000 volunteers (of all ages) clean California highways annually. Based on the same source, it was assumed that the value of donations made by each volunteer averages \$500 annually, generating a total value of donations on the order of \$25 million annually. Applying a 50% tax credit, the offset of any current deductions allowed and allowing for nontaxable individuals, the revenue loss would be on the order of \$10 million annually beginning in 2001-02.

POLICY CONSIDERATIONS

This bill would allow taxpayers a credit for the value of “time” as a service that is donated to the State for highway maintenance or enhancement, which is unprecedented. Credits generally are allowed to taxpayers for actual expenses paid or incurred. In addition, the credit taken by a taxpayer that donates services based on the number of hours donated could be construed as compensation from the State for those services. Unless specifically excluded, compensation for services is included in gross income and subject to tax.

Under existing law, a taxpayer contribution of property, including materials, equipment, or services may be limited to the cost paid or incurred by the taxpayer (basis) for the property. A credit that is based on the fair market value of the property contributed to the state as opposed to the basis could potentially be construed to be an amount realized on the disposition of that property, producing a gain subject to federal income tax.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1057
As Amended June 5, 2001

AMENDMENT 1

On page 2, line 25, after "than" insert:

an amount determined using

AMENDMENT 2

On page 3, modify lines 2 and 3 as follows:

Department of Transportation of the amounts paid or incurred, the number of hours
and the value of the materials and equipment donated ~~and the number of hours~~
~~donated~~ by the taxpayer during the

AMENDMENT 3

On page 3, line 11, strikeout "forward" and insert:

over

AMENDMENT 4

On page 3, line 38, after "than" insert:

an amount determined using

AMENDMENT 5

On page 4, modify lines 2 and 3 as follows:

Department of Transportation of the amounts paid or incurred, the number of hours
and the value of the materials and equipment donated ~~and the number of hours~~
~~donated~~ by the taxpayer during the

AMENDMENT 6

On page 3, line 11, strikeout "forward" and insert:

over